



Workers' Guide to Industrial Insurance Benefits

This is your guide to industrial insurance benefits. It explains the benefits available to you if you are injured on the job or develop an occupational disease. These benefits vary, depending on the injury. They can include paid health care, wage replacement and other services to aid you in your recovery and return to work.

This guide summarizes what happens when you file a claim, and how you can help make the process work smoothly for you. It also explains your rights and responsibilities, and tells you what choices you have if you disagree with a decision. This booklet, however, is not a legal interpretation of the law.

If you are injured on the job in Washington, you are insured by the Washington State Fund, unless your employer is self-insured, as some 400 employers in Washington are. (L&I publishes a different guide for workers employed by self-insured businesses.)

If your claim is accepted, the benefits and level of service to which you are entitled are set by the state Legislature and administered by the Department of Labor and Industries. Our goal is to provide quality services to help you recover and return to work as soon as possible.

Information is current as of July 2001. Updates will be added as changes occur.

For more information:

Call L&I's toll-free information line
1-800-LISTENS (1-800-547-8367)

Table of Contents

	Page
What is Industrial Insurance?	4
What to Do if You Are Injured at Work	5
Your Benefits	6
Health Care Services	6
What health care services are covered?	6
May I choose my doctor?	6
Will L&I pay my medical bills?	6
May I change doctors once my claim is filed?	6
Time-Loss Compensation (Wage-replacement benefits)	7
How do I qualify for time-loss compensation?	7
How long do I have to be off work to qualify for time-loss compensation benefits?....	7
When will my first benefit check come in the mail?	7
How long will I receive time-loss compensation benefits ?	7
Will I ever have to return time-loss compensation benefits to L&I?	7
How Time-loss Compensation Is Calculated.....	8
Establishing your gross income	8
Possible effects on Social Security benefits	9
Time-loss compensation for asbestos-related occupational diseases	9
Other Benefits.....	10
Refunds for traveling to a doctor or job training appointment	10
Property damage refunds	10
Help Getting You Back To Work: Modified Jobs & Vocational Plans	11
Modified Jobs.....	11
Employability Assessments.....	12
Vocational Plans.....	12
Protesting Decisions about Vocational Benefits.....	12

Table of Contents (continued)

Disability Awards, Pensions & Survivor Benefits	13
Awards: Partial Permanent Disabilities.....	13
Specified disabilities	13
Unspecified disabilities	13
Rating a worker's unspecified disability	13
Pensions: Total Permanent Disabilities.....	14
Your pension options	14
Survivor Benefits.....	15
Monthly pension payments	15
Immediate cash payment and burial benefits	15
Dependent benefits.....	15
Remarriage	15
Your Legal Rights and Responsibilities	16
Protesting an L&I Decision about Your Claim.....	16
If You Need Legal Assistance	17
Reopening a Claim.....	17
Protection From Employer Discrimination.....	17
Claim Paperwork.....	18
Giving L&I False Information	18
When Injuries Are Caused by a "Third Party"	18
Basic Health Plan.....	19
Information and Assistance	20
L&I Service Locations throughout Washington State	20

What is Industrial Insurance?

Whether an injured worker is covered by L&I's Washington State Fund, or a self-insured employer, he or she is entitled to no-fault accident and disability coverage. This "industrial insurance" covers medical expenses and pays a portion of wages lost while a worker recovers from a workplace injury. Insurance premiums paid by both workers and employers finance these benefits.

Unlike other types of insurance, L&I can cover injuries only if they happen at a definite time and place at work. Also, claims for occupational diseases are accepted only if your work and medical history shows you have an illness or infection that was directly caused by the work you do, and not by something else.

**L&I benefits are for
job-related injuries only.**

We all work hard to prevent accidents that result in injuries or exposure to hazardous substances that may cause occupational diseases. Still, nearly 175,000 work-related injuries and occupational diseases are reported to L&I each year. Another 64,000 on-the-job injuries and diseases are reported each year to self-insured companies.

If you suffer an on-the-job injury or occupational disease, we encourage you to maintain contact with your employer. Let your employer know how you are doing. If you are unable to return to your old job for a while, talk to your employer about lighter-duty work you may be able to do during your recovery. Many return-to-work options may be pursued. Some are outlined in this guide. Read it and know your rights.

If you need help, please call us. Information is available. Always have your claim number ready:

- To speak with someone in English or Spanish and get current, general information about your claim, call 1-800-LISTENS (1-800-547-8367). Phone translation services are available for other non-English-speaking customers. Or, you may call 360-902-5797 for hearing/speech impaired TDD service.)
- For fast, automated information about your claim or the status of your check, in English or Spanish, call 1-800-831-5227.
- For general information about L&I and its workers' compensation laws, go to our web site at www.LNI.wa.gov/insurance/workers.htm.
- For the phone number of an L&I service center near you, refer to the end of this guide.

What to Do if You Are Injured at Work

1. Report your injury or exposure to your employer as soon as possible.

Your employer needs to know about your condition and what caused it. Otherwise, he or she may ask us to deny your claim.

2. File your claim with L&I by completing a Washington State Fund Report of Industrial Injury or Occupational Disease. Usually, a doctor will help you fill out this form when you are first seen for your workplace injury or condition.

Still, it is your responsibility to make sure it is filed. You complete the first section. After examining you, the doctor will complete the second section and send copies to L&I and your employer. Injury claims must be filed within one year. Occupational disease claims must be filed within two years of receiving written notice from a doctor that the condition exists and is work-related.

3. Stay in touch with your employer. Let your employer know how you are doing and when you expect to return to work. If you are unable to do your old job, discuss the possibility of other work you may be able to do during your recovery.

4. Communicate with your doctor. Good communication between your doctor and your claim manager is essential to the smooth delivery of benefits. You can help by making sure your doctor regularly sends in the paperwork we require verifying you cannot work because of your injury. Your doctor must clearly explain the medical findings and conditions that keep you from working. Your claim manager also needs medical reports from your doctor with a current treatment plan.

5. Work closely with your claim manager. Your claim manager will be responsible for seeing that you get all benefits to which you are entitled. Your claim manager's name and phone number will appear on the notice enclosed with your first time-loss compensation check. For best service, always include your claim number when you write to us and have it ready when you call. Let us know immediately if you move, change phone numbers, change doctors or cannot keep a claim-related appointment.

Your benefits

Health Care Services

If you are hurt on the job and your claim is accepted, L&I will pay your medical bills and often replace a portion of your lost wages while you recover.

What health care services are covered?

If your claim is accepted, L&I pays for all doctor, hospital, surgical, pharmacy and other health care services necessary for the treatment of your workplace injury or occupational disease. Health care services are provided until your work-related injury has stabilized and reached a point where further recovery is not expected.

Other services may include, but are not limited to, emergency ambulance service, special or home nursing care, dental repair, convalescent center care, crutches, braces, artificial limbs, glasses and hearing aids.

Some automobile and home modification costs are covered for workers suffering amputation or paralysis. These workers also receive lifetime prosthesis maintenance, including replacements needed because of normal wear and tear of the prosthesis or related physical changes.

May I choose my doctor?

Yes. You may choose any doctor who is qualified to treat your injury. Qualified doctors include: medical, osteopathic, chiropractic, naturopathic and podiatric physicians, dentists, optometrists and ophthalmologists. For information about whether your health care provider is authorized and accepting workers' compensation patients, call 1-800-LISTENS (1-800-547-8367).

Will L&I pay my medical bills?

Yes. If your claim is accepted, usually there are no out-of-pocket expenses to you. Health care providers -- including doctors, clinics, therapists and pharmacies--should send their bills directly to L&I for payment. If your claim has been approved and you receive a bill, please contact the sender and ask them to bill L&I. However, if your eligibility for benefits is in doubt, a health care provider may send a bill to you. If so, keep a copy of the bill and send one to L&I. We will pay the bill if your claim is approved.

May I change doctors once my claim is filed?

You may change doctors or ask for a consulting opinion from another doctor if you feel you are not making proper progress with your current doctor. However, to ensure proper payment of your medical bills, you must get approval from your claim manager before changing doctors or seeking another opinion. You can request a change of doctors by contacting your claim manager or the nearest L&I service location.

Time-Loss Compensation (Wage-replacement benefits)

If you are unable to work as a result of your injury or disease, you will be paid a portion of your regular wages. These time-loss compensation payments will not provide you with the same income you earned when you were working.

How do I qualify for time-loss compensation?

Your doctor must certify that your condition is work-related and that you are unable to work. Your doctor does this by completing and sending to L&I the Report of Industrial Injury or Occupational Disease. On this form, he or she will estimate how many days you may be unable to work. If you qualify, the amount of the first check will be based on this estimate and information from your employer.

How long do I have to be off work to qualify for time-loss compensation benefits?

These are paid if you are unable to work for more than the three days immediately following the date of your injury. Injured workers are not compensated for those first three days unless they are still unable to work on the fourteenth day following the injury.

L&I benefits will never equal the wages you earned while working.

When will my first benefit check come in the mail?

If, on the Report of Industrial Injury or Occupational Disease, the doctor states that you cannot work, we have 14 days from receipt of that report to mail you a check.

How long will I receive time-loss compensation benefits ?

You will receive time-loss payments approximately twice a month as long as your doctor verifies that your condition prevents your return to any work. You and your doctor must keep L&I regularly informed of your progress. Without this information, your time-loss compensation check could be delayed or stopped.

Will I ever have to return time-loss compensation benefits to L&I?

If your claim ultimately is rejected because your claim manager found that your injury or disease was not work-related (or if new information shows your check should have been for a lower amount), you will be required to refund all or part of the money you received. Also, time-loss compensation must be refunded if it is later found that you were able to work, or you did work days for which you received benefits.

How Time-loss Compensation Is Calculated

The amount of your time-loss benefit check is 60 to 75 percent of your total wages and certain benefits, depending on your marital status and number of dependents you have when you are injured. Also, these benefits cannot exceed certain limits based on a percentage of the state's average wage. (The state's average wage varies; it is established by the Department of Employment Security on July 1 of each year.) These benefits are based on a standard formula established by law.

Establishing your gross income

When calculating your benefit, claim managers must first establish your gross income at the time of the injury.* The Wage Order you receive in the mail will show you the information we used to calculate this, including:

- Your wages earned before taxes, including income from a second job.
- Your medical, dental and vision benefits.
- The reasonable value of room and board, housing, fuel or similar considerations received from your employer as part of your income.
- Any bonus you received as a part of the contract of hire with the employer at the time of injury.
- Tips you reported to your employer for federal income tax purposes.

If your work is exclusively seasonal, essentially part-time or intermittent, your monthly wage is determined by averaging the total wages earned, including overtime pay and tips, from all employment in any 12 successive calendar months preceding the injury that most fairly represents your employment pattern.

* If you have an occupational disease, gross income is based on the date you were last exposed, first required medical treatment or became disabled, whichever came first.

Possible effects on Social Security benefits

You should report to your claim manager any Social Security payments you receive. In some cases, you may receive both time-loss compensation and Social Security disability or retirement benefits. However, if the combined benefits total more than the maximum amount allowed under a formula contained in the federal Social Security law, your time-loss compensation payments will be reduced by the amount that exceeds the maximum. In no case will your combined benefit amount be reduced to less than the time-loss compensation amount you received from L&I.

Time-loss compensation for asbestos-related occupational diseases

There are a number of people suffering asbestos-related occupational diseases who, during the course of their employment, have worked for several businesses covered by federal, state or maritime industrial insurance laws. In these cases, it often is difficult to determine the responsible employer. *Because medical treatment often is urgent, L&I will provide benefits to those who would be eligible under state law.*

To be eligible, there must be objective clinical findings to prove that you have an asbestos-related occupational disease. Also, your work history must indicate an injurious exposure to asbestos fibers while you worked for a covered employer within Washington state.

Once L&I has determined which employer, or employers, are liable, we may pursue repayment of benefits from the appropriate insurance program.

Other Benefits

Refunds for traveling to a doctor or job training appointment

In some cases, your benefits may cover transportation, food and lodging costs. Receipts are required for all expenses except parking expenses under \$10. L&I will pay your travel expenses for the following reasons:

- If you must travel for more than 10 miles to get adequate health care services.
- If you must travel to attend an independent medical examination arranged or requested by L&I.
- If it is necessary in your approved vocational retraining plan.

L&I will cover your travel expenses if you must travel more than 10 miles to see a doctor.

When you request travel reimbursement, please use the travel expense voucher available at your nearest L&I service location. Your request must be made within one year of the trip and must indicate the date, destination and reason for travel. Mail your travel reimbursement request to Department of Labor and Industries, PO Box 44267, Olympia, WA 98504-4267.

Property damage refunds

In some cases, your benefits may cover the cost of personal clothing, footwear or protective equipment that is damaged or lost because of a workplace injury. The same is true if those items are lost or damaged because of emergency treatment offered on the scene. Receipts for repair or replacement of articles are required. Copies of receipts should be attached to the bill and sent to your claim manager.

Help Getting You Back To Work: Modified Jobs & Vocational Plans

Modified Jobs

Depending on the severity of the injury or the type of work, you may have difficulty returning to work right away. In these cases, the claim manager may ask a vocational counselor to help develop a solution, involving you, your employer and your doctor. Many times the employer, without the help of L&I, can find a lighter-duty, medically approved job for you.

L&I requires you to actively participate in all return-to-work activities while you are receiving benefits. The sooner the problems preventing your return to work are identified and resolved, the better your chances are of keeping your job or finding a new one.

If you are assigned a vocational counselor, he or she will begin evaluating your return-to-work options by asking:

Often, injured workers have the skills to do different work.

Can your regular job be temporarily modified?

In some cases, the physical demands of a job can be changed temporarily to accommodate physical restrictions. This may include part-time or lighter-duty work.

Can your regular job be permanently modified?

Employers are sometimes able to permanently change the physical demands of the job so that it is tailored to your physical restrictions.

Can you return to a new job with your employer?

A different permanent job, in keeping with your physical restrictions, is sometimes available with your same employer.

Employability Assessments

Some workers have injuries that make it impossible to return to work with their employer. However, they often have skills to do a different kind of work. If this is the case, your employability may be assessed with the help of a vocational counselor, who can match your experience, education, knowledge, interests, age, skills and physical and mental capabilities to the job market in your area.

Your claim manager will review the vocational counselor's recommendations and determine whether:

- You are employable in your area's job market and not eligible for further vocational services, **OR**
- You are eligible for further vocational services. A vocational counselor then will develop a vocational plan with the goal of helping you become employable, **OR**
- You are not able to work and are not eligible for further vocational services.

Vocational Plans

Vocational plans are short-term programs aimed at helping disabled workers find new work. By law, they are limited to a maximum of 52 weeks and cannot exceed \$4,000 in total costs. For this reason, vocational programs usually cannot pay tuition for long-term college programs. However, they may cover the cost, for example, of a college course combined with some on-the-job training, or a vocational or technical program that takes less than 52 weeks.

If you qualify, you and your vocational counselor will draft a vocational plan that will list specific services you will need to become employable again. It also will show the responsibilities you, your counselor, your employer and others will have as you work toward this goal.

While you are actively participating in vocational rehabilitation services, you will continue to receive time-loss compensation benefits. If you fail to participate, your medical and time-loss compensation benefits may be suspended.

Protesting Decisions about Vocational Benefits

You have the right to protest decisions L&I makes about your employability or your vocational plan. If you decide to take this step, you must send a written complaint to the Vocational Dispute Resolution Office, Department of Labor and Industries, PO Box 44880, Olympia, WA 98504-4880. You must write to L&I within 15 days after receiving the notice with which you disagree. Explain your concerns in detail. The Vocational Dispute Resolution Office will investigate your complaint and help resolve the dispute. Its recommendations then will go to the director of the department, who will make the final decision.

Disability Awards, Pensions & Survivor Benefits

Awards: Partial Permanent Disabilities

If your injury or occupational disease caused permanent loss of bodily function, you will receive a permanent partial disability award. The amount you receive for any physical loss is established by the Legislature and does not include compensation for pain and suffering. There are two types of permanent partial disabilities:

Specified disabilities

Some disabilities have awards that are already set by law. These are easily quantified losses, such as loss of your vision or hearing, or the loss of an eye, leg, foot, toe, arm or finger by amputation.

Unspecified disabilities

These disabilities include every other type of impairment caused by an on-the-job injury or occupational illness, including the partial loss of function to a limb.

Rating a worker's unspecified disability

The degree of a partial loss of function is determined by a disability rating. These ratings are conducted either by the doctor who treated you (the "attending physician"), or by one or more independent medical examiners using established medical standards and guidelines. Normally, ratings are performed after all services have been completed, you are medically stable and no further treatment is appropriate.

You will not jeopardize a permanent partial disability award by working. You should return to your job as soon as your doctor releases you for work. Any permanent partial disability award you receive is based on the degree of damage suffered, not on whether you can work.

Pensions: Total Permanent Disabilities

If your accident results in the loss or total paralysis of both legs or arms, one leg and one arm, or a total loss of eyesight, you are eligible for a pension by law, even if you are able to return to work.

If vocational and medical evaluations determine that your injury prevents you from ever becoming gainfully employed, you may be paid a monthly pension for life. However, this type of "non-statutory" pension may not be payable if you are able to return to work.

Pension benefits are paid monthly. They are based on the amount of time-loss compensation to which you are entitled. As with time-loss compensation benefits, the amount you are eligible to receive depends on factors such as your wages, marital status, number of dependents, health care benefits, Social Security benefits and the state's average wage at the time of your injury. In some cases, your pension benefit amount may be reduced for previously paid permanent partial disability awards.

Your pension options

If you are granted a pension, you can choose one of these two options:

- Option 1: You can choose a full pension. However, if you die of causes unrelated to the work-related injury or disease, your survivors will not be eligible for pension payments.
- Options 2 & 3: You can choose a reduced pension. If you die of causes unrelated to the work-related injury, your designated beneficiary will continue to receive pension payments. There are two types of reduced pensions. If you take a slightly reduced pension, your beneficiary will receive half the monthly amount you receive. If you choose to further reduce your pension, your beneficiary will continue to receive the same payments you received.

(If your claim was received before July 1, 1986, and you are granted a pension, your eligible survivors will receive survivor benefits when you die, *regardless of the cause of death.*)

Survivor Benefits

Monthly pension payments

If you are the surviving spouse of someone who dies from a work-related injury or occupational disease, you and your spouse's dependent children will receive a monthly pension. The amount you will receive is based on the formula used for setting time-loss compensation payments.

Immediate cash payment and burial benefits

You also will receive an immediate cash payment amounting to 100 percent of the state's average monthly wage, a calculation made by the Department of Employment Security and adjusted each year. Also, the department will pay burial expenses of up to 200 percent of the state's average monthly wage.

Dependent benefits

Monthly pension payments are made for the worker's children at the time of the injury. Payments continue until they are age 18, or age 23 if they are full-time students at an accredited school. If a dependent child is an invalid, monthly pension payments are made until he or she is no longer dependent. (If there is no spouse or dependent children, certain relatives who can prove financial dependency on the worker may be eligible for survivor benefits.)

Remarriage

If a surviving spouse remarries, his or her benefits do not continue. Instead, he or she may receive a lump sum settlement or, by not taking the settlement, keep the right to receive monthly pension payments again if the marriage ends because of death or divorce.

Your Legal Rights and Responsibilities

Protesting an L&I Decision about Your Claim

Every claim decision requires the use of judgment, and you may not always agree. It may help to first talk to your claim manager.

If you believe the decision is wrong, you may protest it to L&I. You also have the right to appeal directly to the Board of Industrial Insurance Appeals (Board) without first protesting to L&I. You do not need to hire an attorney for a protest or appeal, but you may if you choose to do so.

Protest to L&I

You must send a written protest within 60 days of receiving L&I's decision. Try to explain in detail why you think the decision is unfair, and supply any additional information you think may help us in our evaluation. Mail your protest to the Claims Section, PO Box 44291, Olympia, WA 98504-4291.

We will review your claim and send you a written decision in response to your protest. If you disagree with this decision you may appeal in writing to the Board in Olympia.

Appeal to the Board after protest to L&I

You must send your appeal to the Board within 60 days of receiving L&I's decision. Write to: Board of Industrial Insurance Appeals, 2430 Chandler Ct. SW., P.O. Box 42401, Olympia, WA 98504-2401. The Board's phone is (360) 753-6823 or 1-800-442-0447 (in-state toll-free line).

The Board, which is independent of L&I, conducts hearings on claim issues that cannot otherwise be settled to the satisfaction of you, your employer or the department. The Board issues a written decision about your case after personal arguments and testimony have been taken. This decision may be appealed to a Washington State Superior Court. For more detailed information, ask the Board for its pamphlet, *Your Right to be Heard*.

If You Need Legal Assistance

You are not required to have an attorney to protest any L&I decision. However, you may want an attorney's advice before appealing an L&I decision to the Board of Industrial Insurance Appeals.

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Attorney fees are limited by law to a maximum of 30 percent of any increased benefit you receive as a result of your protest action. Because this maximum fee may not always be reasonable, either L&I or the Board will set a reasonable fee for your attorney's services upon request.

You do not need an attorney to protest an L&I decision, though you may choose to have one.

To request a fee review from L&I, write to the Director of Labor and Industries, PO Box 44000, Olympia, WA 98504-4000.

To request a fee review from the Board, write to the Board of Industrial Insurance Appeals, PO Box 42401 Olympia, WA 98504-2401

Reopening a Claim

If objective medical evidence shows the condition caused by your injury or disease has worsened and requires additional health care attention, your claim may be reopened. If you are applying for medical coverage only, you may make this request at any time. In most cases, we will make a decision within 90 days.

However, if you also wish to apply to reopen your claim for time-loss compensation or permanent partial disability benefits, you must make your request within seven years of the date your claim was first closed. (If your claim is for an eye injury, you have 10 years to apply for a reopening.)

Forms to apply to reopen your claim are available through your doctor's office. If your doctor doesn't have the form, you can request one by writing or calling one of our service locations. The reopening application should be completed and sent to our Claims section, PO Box 44291, Olympia, WA 98504-4291. Be sure to include your claim number.

Protection from Employer Discrimination

If you believe your employer has discriminated against you because you filed a claim, or expressed an intent to file, you can submit a discrimination complaint by writing to L&I Investigations, PO Box 44277, Olympia, WA 98504-4277.

You must act within 90 days. If we find your complaint is valid, we will take legal action

against your employer. Options for settlement include rehiring or reinstatement with back pay.

Claim Paperwork

Keep a file of the paperwork related to your claim. You will be receiving correspondence, important legal documents and sometimes, requests for information. Please respond promptly to L&I's requests for information. In many cases, delivery of essential services will depend on it. Call immediately if you have a question or need more information.

Giving L&I False Information

Any person claiming benefits under the Workers' Compensation Act who knowingly gives false information relating to their claim will be guilty of a Class C felony when the claim involves \$500 or more. When the claim involves less than \$500, a person knowingly giving false information shall be guilty of a gross misdemeanor.

When Injuries Are Caused By A "Third Party"

In Washington, you cannot sue your employer or coworkers when a work-related injury or disease occurs. However, you can sue another company or individual if they are responsible. An example might be a company that manufactured a defective product that caused your injury. Such an individual or company is called a "third party." In these cases, you will be asked to decide whether you want to take legal action against a third party on your own, or have L&I consider taking action for you. In some cases, we may initiate legal action even if you choose not to do so. In any event, you would receive any resulting financial settlement, though some costs related to your claim would be subtracted.

If you decide to pursue legal action on your own, you may wish to seek the advice of an attorney (*see page 17*). Your right to industrial insurance benefits will not be jeopardized by initiating a third-party legal action. You'll receive all the benefits for which you qualify, regardless of the outcome.

If you believe a third party may have been responsible for your injury or occupational disease, contact L&I's Third Party section, PO Box 44288, Olympia, WA 98504-4288, (360) 902-5100.

Basic Health Plan

You and your family may be eligible for health-care coverage through the Washington Basic Health Plan. Although these benefits do not cover workplace injuries and are not affiliated with L&I, the plan offers affordable basic health coverage to qualified families. You must be a Washington resident and not eligible for Medicare.

Call 1-800-826-2444 for more information.

Information and Assistance

If you have questions or concerns regarding your claim, call our automated claims information system: 1-800-831-5227. This voice response system allows you to dial directly into L&I's information system and extract specific details about your claim in English or Spanish.

If you need general information about your claim, call our Office of Information and Assistance toll-free at 1-800-LISTENS (1-800-547-8367) or 360-902-5797 for TDD service. Phone translation services are available. The staff, however, will not be able to connect you with your claim manager.

L&I Service Locations throughout Washington State

Customer service representatives in local L&I offices are available to answer questions about claims and workers' compensation benefits. In some of our smaller offices, you may be referred to another number, depending on your needs. Or, you may be asked to leave a voice mail. We will respond as promptly as possible. **Always have your claim number ready.**

Region 1 Northwest Washington

Bellingham	360-647-7304
Everett	425-290-1300
Mount Vernon	360-416-3070

Region 2 King County

Bellevue	425-990-1486
Seattle	206-515-2800
Tukwila	206-835-1000

Region 3 Pierce County/Peninsula

Bremerton	360-415-4000
Port Angeles	360-417-2700
Tacoma	253-596-3947

Region 4 Southwest Washington

Aberdeen	360-533-8200
Longview	360-575-6900
Tumwater	360-902-5799
Vancouver	360-896-2300

Region 5 Central Washington

E. Wenatchee	509-886-6500
Kennewick	509-735-0100
Moses Lake	509-764-6900
Okanogan	509-826-7345
Walla Walla	509-527-4437
Yakima	509-454-3700

Region 6 Eastern Washington

Colville	509-684-7417
Pullman	509-334-5296
Spokane	509-324-2613